

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 14-0060

In re: Chaparral Fruit Sales, Inc.,

Respondent

Default Decision and Order

Preliminary Statement

This is a disciplinary proceeding brought pursuant to the provisions of the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA), the Regulations promulgated pursuant to the PACA (7 C.F.R. §§ 46.1 through 46.45), and the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary (7 C.F.R. §§ 1.130 through 1.151).

Complainant, Fruit and Vegetable Program, Agricultural Marketing Service, initiated this proceeding against Chaparral Fruit Sales, Inc. (Respondent) by filing a disciplinary Complaint on January 14, 2014, alleging that Respondent willfully violated section 2(4) of the PACA (7 U.S.C. § 499b(4)) during the period of September 27, 2011, and September 30, 2012 by failing to make full payment promptly to 7 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$738,006.11 for 331 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of or in contemplation of interstate and foreign commerce. The Complaint requested that an Administrative Law Judge find that Respondent has committed willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)), and order that the facts and circumstances of those violations be published.

Respondent failed to answer the Complaint and the time for filing an answer having run, upon the motion of Complainant for the issuance of a Decision without Hearing by Reason of Default, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 (7 C.F.R. § 1.139) of the Rules of Practice.

Findings of Fact

1. Chaparral Fruit Sales, Inc. (Respondent) was incorporated and existed under the laws of the state of Texas with a business and mailing address in San Antonio, Texas. Respondent is not currently operating and the Complaint was served on Respondent's sole officer and shareholder, Amadeo C. Lopez.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License No. 1988 0881 was issued to Respondent on March 23, 1988. This license terminated on March 23, 2013, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.
3. Respondent, during the period September 27, 2011, and September 30, 2012, on or about the dates and in the transactions set forth in Appendix A to the Complaint and incorporated herein by reference, failed to make full payment promptly to 7 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$254,141.80 for 42 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce.
4. On February 14, 2013, Respondent filed a Voluntary Petition pursuant to Chapter 7 of the Bankruptcy Code (11 U.S.C. § 1101 *et seq.*) in the United States Bankruptcy Court for the Western District of Texas. The petition was designated Case No. 13-50354. Respondent

admitted in its Schedule F¹, provided as Attachment A to the Complaint and incorporated herein by reference, that 2 of the 7 sellers listed in Appendix A, hold unsecured claims for unpaid produce debt totaling \$72,490.57.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Order

1. The facts and circumstances of the violations shall be published.
2. This Decision will become final without further proceeding 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies of this Decision and Order shall be served upon the parties.

March 25, 2014

Peter M. Davenport

Peter M Davenport
Chief Administrative Law Judge

¹ Four produce creditors filed claims totaling \$134,827.51 during the bankruptcy claims process, which ended on June 27, 2013.